

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DAVID D. HARRIS,
Petitioner,

v.

GENA JONES, Acting Warden,
Respondent.

Case No. [23-cv-02434-AMO](#) (PR)

**ORDER OF DISMISSAL WITHOUT
PREJUDICE**

This suit was reassigned from a magistrate judge to the undersigned in light of a Ninth Circuit decision.¹

On May 3, 2023, petitioner, an inmate, filed a document with the United States District Court for the Eastern District of California in the instant case, which was opened as a habeas corpus action. Dkt. 1.

On May 17, 2023, this action was transferred to the United States District Court for the Northern District of California. Dkts. 5, 6. On the same day the action was transferred to the Northern District, the Clerk of the Court sent a notice to petitioner informing petitioner that his action could not go forward until he filed with the Court a habeas corpus petition form, completed in full, within twenty-eight days or his action would be dismissed. Dkt. 7. The Clerk also sent petitioner another notice directing him to either pay the filing fee or file a completed prisoner's *in forma pauperis* ("IFP") application. Dkt. 8. The Clerk sent petitioner a blank IFP application and

¹ *Williams v. King*, 875 F.3d 500, 503 (9th Cir. 2017) (magistrate judge lacked jurisdiction to dismiss case on initial screening because unserved defendants had not consented to proceed before magistrate judge).

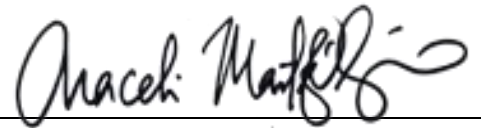
1 told him that he must pay the fee or return the completed application within twenty-eight days or
2 his action would be dismissed.

3 More than twenty-eight days have passed, and petitioner has not filed his petition on the
4 correct form. He has also failed to pay the filing fee or return the IFP application, and the deadline
5 to do so has passed.

6 Accordingly, this action is **DISMISSED WITHOUT PREJUDICE**. The Clerk shall
7 terminate all pending motions and close the file. Any motion to reopen must contain his petition
8 on the correct form and must also include either the full filing fee or a completed IFP application.

9 **IT IS SO ORDERED.**

10 Dated: September 20, 2023



ARACELI MARTÍNEZ-OLGUÍN
United States District Judge